IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY SIXTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 21677 of 2004

Between:

Sandepogu Zakkaraiah, S/o Chinasahayam,
Pandillapalli, Bestavaripeta Mandal, Prakasam District.

..... PETITIONER

AND

1 The Joint Collector, Prakasam District, Ongole.
2 The Revenue Divisional Officer, Markapur, Prakasam District.
3 The Mandal Revenue Officer, Bestavaripeta Mandal, Prakasam District.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may leased to issue a writ of Mandamus or any other writ, order or direction, particularly in the nature of a writ, declaring the order of the 1st respondent passed in RC.CS.2/4725/2004, dated 22-11-2004 and the order of the 2nd respondent passed in RCH/1986/2004 dated 8-11-2004 as arbitrary, illegal and violative of principles of natural justice and consequently to set aside the same.

Counsel for the Petitioner:MR.G.PEDDA BABU

Counsel for the Respondents: GP FOR CIVIL SUPPLIES

The Court, at the stage of admission, made the following :

ORDER:

The petitioner was appointed as a Fair Price Shop Dealer, in the year 2000, on the basis of selections. His authorization was suspended through proceedings, dated 08.11.2004, by the 2nd respondent, for a period of two months. Aggrieved thereby, he preferred an appeal before the 1st respondent together with an application for stay. The stay was rejected by the 1st respondent through order, dated 22.11.2004. Hence, this writ petition.

The 2nd respondent suspended the authorization for a period of two months, pending enquiry. The show cause notice, as to why the authorization shall not be cancelled, has already been issued. One factor which weighs with this Court is that on the basis of allegations made against the petitioner, 2nd respondent ordered an enquiry by the Deputy Tahsildar, and after conducting local inspection , the Deputy Tahsildar observed as under:

> "As per the above it is clear that the allegation that the dealer was not in the Village and distributing the commodities for higher price proved to be false. Recommended to take action for not maintaining the records properly. Herewith annexing the complaint and statements."

This aspect was not at all taken into account either by the 2nd respondent or by the

1st respondent. Having regard to the facts and circumstances of the case, this Court is of the view that the petitioner deserves to be granted interim order, pending disposal of the appeal before the 1st respondent.

Hence, the writ petition is disposed of directing that the order of suspension, dated 08.11.2004, passed by the 2nd respondent shall stand stayed, pending disposal of the appeal by the 1st respondent. This order, however, does not preclude the 2nd respondent from proceeding with the enquiry on merits, for the proposed cancellation of the dealership. There shall be no order as to costs.

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L.NARASIMHA REDDY, J

Dated : 26th November, 2004

Note: Operative portion by

wire at party's cost.

(B/o.)

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To

1 The Joint Collector, Prakasam District, Ongole.
2 The Revenue Divisional Officer, Markapur, Prakasam District.
3 The Mandal Revenue Officer, Bestavaripeta Mandal, Prakasam District.

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